

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America,

Case No. 22-cr-261 (JRT/DJF)

Plaintiff,

v.

**ORDER**

Darius Mark Tucker,

Defendant.

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This matter is before the Court on the parties' motions for discovery, disclosure, and other non-dispositive relief. On December 1, 2022, the Court held a hearing (ECF No. 30) on these motions and on Defendant's Motion to Suppress Evidence Obtained as a Result of Search and Seizure (ECF No. 24) and Motion to Suppress Statements, Admissions, and Answers (ECF No. 25). The Court will address the motion to suppress in a separate report and recommendation. During the hearing defense counsel requested that the government's expert disclosures be due at least 30 days before trial. The parties otherwise waived oral argument on their motions for non-dispositive relief. Based on the statements at the hearing, the parties' written submissions, and on the entire file, the Court enters the following Order.

**I. The Government's Motion for Discovery (ECF No. [16])**

The Government seeks discovery and disclosure as required by Rules 16(b), 12.1, 12.2, 12.3 and 26.2 of the Federal Rules of Criminal Procedure, and Rules 702, 703 and 705 of the Federal Rules of Evidence. The Government's motion is **GRANTED** insofar as Mr. Tucker shall provide discovery to the extent required by the applicable Rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: **28 days prior to trial.**
- b. Rebuttal expert disclosures: **14 days prior to trial.**

**II. Defendant's Pretrial Motion for Disclosure of 404(b) Evidence (ECF No. [18])**

Mr. Tucker's motion for disclosure of evidence the Government may introduce pursuant to Federal Rule of Evidence 404(b) is **GRANTED**. The Government shall provide the disclosure required by Rule 404(b) at least three weeks prior to trial.

**III. Defendant's Motion to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant (ECF No. [19])**

Mr. Tucker's motion to compel the Government to disclose evidence favorable to the defendant is **GRANTED** to the extent required by *Brady v. Maryland*, 373 U.S. 83 (1963), *United States v. Giglio*, 405 U.S. 150 (1972), and their progeny. These cases impose affirmative and ongoing disclosure obligations on the Government.

**IV. Defendant's Motion for Discovery and Inspection (ECF No. [20]), Motion for Discovery of Expert Under Rule 16(a)(1)(G) (ECF No. [21]), and Pretrial Motion for Disclosure of Results and Reports of Forensic Testing (ECF No. [22])**

Mr. Tucker's motions are **GRANTED** insofar as the Government shall provide discovery to the extent required by Rules 16 and 26.2 of the Federal Rules of Civil Procedure, Rules 702, 703 and 705 of the Federal Rules of Evidence, *Brady v. Maryland*, 373 U.S. 83 (1963), and all other applicable statutory and constitutional rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: **28 days prior to trial.**
- b. Rebuttal expert disclosures: **14 days prior to trial.**

**V. Defendant's Motion for Government Agents to Retain Rough Notes and Evidence (ECF No. [23])**

Mr. Tucker's Motion for an order requiring the Government's investigators to retain and preserve their rough notes is **GRANTED**. Disclosure of rough notes is not required at this time.

Dated: December 2, 2022

s/ Dulce J. Foster

Dulce J. Foster

United States Magistrate Judge